State court proceeding. This Court noted that it had only applied the doctrine twice, in the two original cases from which the doctrine takes its name, *Exxon Mobil*, 125 S. Ct. at 1521 (citing *District of Columbia Court of Appeals v. Feldman*, 460 U.S. 462 (1983); and *Rooker v. Fid. Trust Co.*, 263 U.S. 413 (1923)); and explained that

> [v]ariously interpreted in the lower courts, the doctrine has sometimes been construed to extend far beyond the contours of the *Rooker* and *Feldman* cases, overriding Congress' conferral of federal-court jurisdiction concurrent with jurisdiction exercised by state courts, and superseding the ordinary application of preclusion law pursuant to 28 U.S.C. § 1738. . . . Since *Feldman*, this Court has never applied *Rooker-Feldman* to dismiss an action for want of jurisdiction.

Exxon Mobil, 125 S. Ct. at 1521, 1523.

This Court in *Exxon Mobil* held that the *Rooker-Feldman* doctrine is a narrow doctrine, and does not apply, as South Carolina urges its application here, to "stop a district court from exercising subject-matter jurisdiction simply because a party attempts to litigate in federal court a

matter previously litigated in state court." *Exxon Mobil*, 125 S. Ct. at 1527.

Here, Holliday was not a party, nor could he have been a party to the state court litigation, because his claim – for an unconstitutional taking of private property and for violation of 42 U.S.C. §1983 – would not have been ripe for review during that litigation. Holliday was not in privity with, nor was he related in any way to, the plaintiffs in the state court litigation; thus, he lacked standing to appeal the state decision. In addition, Holliday did not ask the district court to hold that Act 125 was invalid and unenforceable. Consequently, *Rooker-Feldman* does not bar Holliday's suit. *See Exxon Mobil*, 125 S. Ct. at 1521-22 (confining *Rooker-Feldman* to "cases brought by state-court losers complaining of injuries caused by state-court judgments rendered before the district court proceedings commenced and inviting district court review and rejection of those judgments."); *Johnson v. De Grandy*, 512 U.S. 997, 1006 (1994)

("[U]nlike Rooker or Feldman, the United States was not a party in the state court. It was in no position to ask this Court to review the state court's judgment and has not directly attacked it in this proceeding.").

2. The *Rooker-Feldman* doctrine has a legitimate but limited purpose, not applicable here. The two Supreme Court decisions from which the *Rooker-Feldman* doctrine takes its name, *District of Columbia Court of Appeals v. Feldman,* 460 U.S. 462 (1983), and *Rooker v. Fid. Trust Co.*, 263 U.S. 413 (1923), involved explicit attempts to use a federal district court as a state appellate court.

In both of those cases, the losing party in state court sought to "reverse" the state court decision by winning on the same case in federal court. *See Feldman*, 460 U.S. at 482 ("[A] United States District Court has no authority to review final judgments of a state court in judicial proceedings. Review of such judgments may be had only in this Court. Therefore, to the extent that Hickey and

Feldman sought review in District Court of the District of Columbia Court of Appeals' denial of their petitions for waiver, the District Court lacked subject matter jurisdiction over their complaints."); *Rooker*, 263 U.S. at 414 ("This is a bill in equity to have a judgment of a circuit court in Indiana, which was affirmed by the Supreme Court of the state, declared null and void.").

Thus, the *Rooker-Feldman* doctrine serves to bar a lower federal court's direct review of the decision of a state's highest court, since the authority to do so is vested solely in the United States Supreme Court under 28 U.S.C. § 1257. *See, e.g., Brown & Root, Inc. v. Breckenridge*, 211 F.3d 194, 198-99 (4th Cir. 2000). The doctrine also acknowledges Congress' limited grant of power to the federal district courts, permitting those courts to exercise only original jurisdiction. *Exxon Mobil*, 125 S. Ct. at 1521 ("Federal district courts . . . are empowered to exercise original, not appellate, jurisdiction."); *Rooker*, 263 U.S. at 416 ("The

jurisdiction possessed by the District Courts is strictly original.") (citation omitted).

3. The Fourth Circuit's decision for which South Carolina seeks review is entirely consistent with this Court's unanimous decision in *Exxon Mobil Corp. v. Saudi Basic Indus. Corp.*, 544 U.S. ___, 125 S. Ct. 1517 (2005). In its decision, the Fourth Circuit noted that "[t]he Supreme Court in [*Johnson v. De Grandy*, 512 U.S. 997 (1994)] could hardly have stated more clearly that the *Rooker-Feldman* doctrine did not apply other than to parties in the state proceedings. . . . In the case at hand, Holliday was not a party to the [*Westside Quik Shop, Inc. v. Stewart*, 534 S.E.2d 270 (S.C. 2000)] state litigation." *Holliday Amusement Co. of Charleston v. South Carolina*, 401 F.3d 534, 537, 538 (4th Cir. 2005); App. to Pet. for Cert. 7a.

The Fourth Circuit reaffirmed its "commitment to the requirement that, absent participation in the state proceeding, a *Rooker-Feldman* objection to jurisdiction is

not well taken." *Id.* at 539; App. to Pet. for Cert. 9a. Less than one month after the Fourth Circuit issued its decision, this Court released its decision in *Exxon Mobil*, holding that the *Rooker-Feldman* doctrine "has no application to a federal suit brought by a nonparty to the state suit." *Exxon Mobil*, 125 S. Ct. at 1523 (citation omitted). Thus, South Carolina is essentially asking this Court to again examine a decision rendered just months ago, but gives no good reason why it should.

CONCLUSION

The Petition for a Writ of Certiorari should be denied.

Respectfully submitted,

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